

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

WILLIE F. MASON,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:20-CV-320-WKW
)	[WO]
LARRY A. MCGUFFEY, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

On April 21, 2020, Willie Mason (“Mason”) filed suit against Larry McGuffey (“McGuffey”) and Merdzic Transportation, Inc. (“Merdzic”) in the Circuit Court of Lowndes County, Alabama. (Doc. # 1-1.) On May 13, 2020, Defendants removed the case to this court pursuant to 28 U.S.C. §§ 1332(a) and 1441(a). (Doc. # 1.)

In his complaint, Mason alleges that on the evening of August 18, 2018, while he was driving “on the exit ramp heading southbound onto I-65 near County Road 6,” a tractor trailer operated by McGuffey pulled out from the side of the road and directly into the path of his vehicle. (Doc. # 1-1, at 4.) As a result, the two vehicles collided, causing Mason injuries. Mason further alleges that at the time of the collision, McGuffey was an employee of Merdzic and was operating the tractor trailer in the line and scope of his employment. (Doc. # 1-1, at 4.)

Based on these events, Mason brings five counts in his complaint: (1) negligence; (2) respondeat superior; (3) negligent hiring, training, supervision, and/or retention; (4) negligent maintenance, operation, service, and/or repair; and (5) negligent entrustment. (Doc. 1-1.)

Now before the court is Merdzic's partial motion to dismiss, brought pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. # 3.) In its motion, Merdzic seeks to dismiss counts three, four, and five of Mason's complaint. On June 3, 2020, Mason filed a response in opposition to Merdzic's motion. (Doc. # 17.) One week later, Merdzic filed a reply. (Doc. # 18.) Having evaluated the complaint in light of the parties' arguments and the legal standard on a motion to dismiss under Rule 12(b)(6), *see e.g. Ashcroft v. Iqbal*, 556 U.S. 662 (2009), *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2008), the court concludes that Merdzic's motion is due to be denied.

Accordingly, it is ORDERED that Merdzic's partial motion to dismiss (Doc. # 3) is DENIED.

DONE this 27th day of October, 2020.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE